

*Filed Electronically*

PATENT APPLICATION  
Docket No. 15436.247.14.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of		)
		)
	Jian Liu et al.	)
		)
Serial No.:	10/696,304	) Art Unit
		) 3663
Filed:	October 27, 2003	)
		)
For:	INTEGRATION OF A GAIN	)
	EQUALIZATION FILTER IN A GAIN	)
	MEDIUM	)
		)
Confirmation No.:	5109	)
		)
Customer No.:	022913	)
		)
Examiner:	Eric L. Bolda	)

STATEMENT OF SUBSTANCE OF THE INTERVIEW

Director of Art Unit 3663  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.133, Applicant hereby submits the following Statement of Substance of the Interview conducted on June 20, 2007.

### **STATEMENT OF THE SUBSTANCE OF THE INTERVIEW**

The interview with Examiner Jack W. Keith, SPE on June 20, 2007 was further to a previous conversation with Examiner Eric Bolda on June 15, 2007. In the previous conversation, Examiner Bolda clarified the restriction requirement by indicating that the species identified in the first Office Action of September 22, 2005 holds distinct not only each sequence of gain portions and gain equalization filters, but also the number of gain portions and gain equalization filters for each embodiment. Therefore, according to Examiner Bolda, every sequence of gain portions and gain equalization filters is patentably distinct. To illustrate, as explained by Examiner Bolda and later discussed with Examiner Keith, an embodiment (1) with a single gain portion preceding a single gain equalization filter is patentably distinct from an embodiment where (2) the gain equalization filter precedes the gain portion based on a change in sequence. Moreover, an embodiment (3) with one gain equalization filter and one gain portion is patentably distinct from an embodiment (4) with one filter and two gain portions. Moreover, for example, embodiments (1), (2), (3), and (4) are all also patentably distinct from an embodiment (5) with two filters and one gain portion, and so on in any sequence or variation in number of such elements. Thus, according to the Examiner any change in the sequence of gain equalization filter(s) and gain portion(s); or in the number of gain equalization filter(s) or gain portion(s) renders each and every embodiment patentably distinct.

In the subsequent interview with Examiner Keith on June 20, 2007, the Applicant argued that the original restriction was improper as it did not present a list of embodiments for selection. However, examiner Keith explained that the basis for the single species election lies in MPEP 803.02 MARKUSH CLAIMS which is applicable even though the claims do not recite a Markush group of elements. Examiner Keith indicated that he fully agreed with Examiner Bolda in that each sequence of gain equalization filter and gain portion is patentably distinct. Thus, as discussed with both Examiner Bolda and Examiner Keith, subsequently filed divisional applications reciting a different sequence (including a different number or order) of gain equalization filters and gain portions will be held by the U.S. Patent Office to be patentably distinct.

**CONCLUSION**

In the event that the Examiners wish to discuss any of the matters contemplated hereby, both are invited to initiate a telephone conversation with the undersigned.

Dated this 3rd day of July, 2007.

Respectfully submitted,

**/David A. Jones/ Reg. # 50,004**

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